

FILED
DISTRICT COURT OF GUAM
AUG 30 2002
MARY L. M. MORAN
CLERK OF COURT

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IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

CAP AMERICA TRUST,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. 02-00024

ANSWER

Defendant Government of Guam (hereafter Defendant) answers the Plaintiff's Complaint as follows:

ANSWERS TO AVERMENTS IN THE COMPLAINT

1. Defendant admits the averments in the following paragraphs of the Complaint:
1, 2, 4, 5, 6, 9, 18, and 21.
2. Defendant denies the averments in the following paragraphs of the Complaint:
10, 16, 22, and 27.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in the following paragraphs of the Complaint: 7, 11, 19, and 23.
4. As to paragraph 3 of the Complaint, Defendant admits that Plaintiff's Employer Identification Number is 98-6042419, but lacks knowledge or information sufficient to form an opinion as to the truth of the other averments in the paragraph.

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5. As to paragraph 8 of the Complaint, Defendant admits that form 1040NR states an amount that Plaintiff believes is due as a refund, but Defendant lacks knowledge or information sufficient to support the amount of the claim, and therefore denies such.

6. As to paragraphs 13, 14, 15, 25, and 26 of the Complaint, Defendant admits it has acknowledged that Plaintiff is entitled to a tax refund, but disputes the actual amount due.

7. As to paragraph 20 of the Complaint, Defendant admits that form 1040NR states an amount that Plaintiff believes is due as a refund, but Defendant lacks knowledge or information sufficient to support the amount of the claim, and therefore denies such.

8. As to paragraphs 12, 17, and 24 of the Complaint, Defendant re-alleges and re-affirms its answers to the particular paragraphs as if fully rewritten herein.

9. Defendant denies every averment in the Complaint which is not specifically admitted above.

AFFIRMATIVE DEFENSES

1. The complaint is barred by Plaintiff's failure to exhaust administrative remedies.
2. The complaint fails to state a claim upon which relief can be granted.
3. The complaint does not state facts upon which a claim for relief for attorney fees can be granted.

WHEREFORE, the Defendant prays for the following relief:

1. That Plaintiff take nothing as a result of his complaint, and it should be dismissed.

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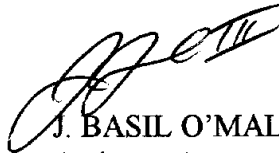
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2. That Defendant be awarded costs and disbursements incurred herein.
3. For such other relief as the Court deems just and equitable.

Dated: August 29, 2002.

ROBERT H. KONO
Attorney General, Acting

By:

A handwritten signature in black ink, appearing to read "J. Basil O'Mallan, III", written over the printed name.

J. BASIL O'MALLAN, III
Assistant Attorney General
Attorney for Defendant
Government of Guam

CAP America Answer